

EXHIBIT 4



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June 5, 2009

VIA E-MAIL

(wvsdml_digitek_chambers@wvsd.uscourts.gov)

Honorable Joseph R. Goodwin, Chief Judge
United States District Court for the
Southern District of West Virginia
7009 Robert C. Byrd United States Courthouse
300 Virginia Street East
Charleston, WV 25301

Re: *In re Digitek® Products Liability Litigation*, MDL No. 1968

Dear Judge Goodwin:

We received the PSC's letter of June 4, 2009 addressed to you. In light of your upcoming meeting with the state court judges on June 11th, we wanted to respond briefly to the portion of the letter dealing with Plaintiff Fact Sheets. We will respond to the other points, really agenda items for our June 17th conference, in a separate letter.

The first subject is how many PFSs arrived with no records at all. The fact that we engaged RecordTrak to obtain medical records did not occur until relatively recently. Plaintiffs have never been prohibited from obtaining records themselves either before they filed suit, or after. Indeed, they have a professional obligation to do so to file and maintain lawsuits. And while the PFS does not specifically address the production of pharmacy records, I direct the PSC to PTO No. 16, IV(A)(2)(c)(ii) and, of course, the fact that there is a release for pharmacy records at the back of the PFS.

Now, please allow us to address the statistics regarding the compliance – or lack thereof – with the PFS deadlines. The numbers reported in our letter regarding noncompliance were materially accurate.

We sent out 41 “delinquency” letters in cases in which we had received no PFS whatsoever. In the wake of those letters, we received phone calls from several Plaintiffs’



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attorneys who said that they had timely sent a PFS. These calls spurred us to do a substantial investigation throughout the day yesterday, and I want to report what we found.

- TEW mistakenly sent a delinquency letter in one case. We received the PFS, but overlooked it. We personally called Plaintiff's counsel in that case, and apologized.
- TEW sent delinquency letters in two other cases even though we were simultaneously in the process of talking with those lawyers about dismissals. Again, TEW called them and apologized for the technically accurate, but admittedly needless letters.
- In three cases we found that there were technical errors that were the fault of neither the Plaintiff nor the defense counsel. In these three cases, it appears that Plaintiffs' counsel made a good faith effort to comply by sending the PFS by e-mail. After another thorough search of our electronic mailboxes and spam filters, however, none of the PFSs in these three cases were there. They were not delivered to either of the intended recipients - Claudia Hemminger or me. None of the Plaintiffs' lawyers in these three cases have electronic, effective delivery or read receipts for those fact sheets. These three are instances of unexplained failures inherent in e-mail communication.

The bottom line is that out of 41 delinquency letters, in only one did TEW send a letter in which a PFS had, in fact, been received and overlooked.

Plaintiffs' letter fails to address in any way the fact that there are many cases which have been filed which should have never been filed. While Defendants can deal with that through the legal process if necessary, there are ways to expedite weeding these out and we will offer suggestions to you in this regard at the June 17th conference.

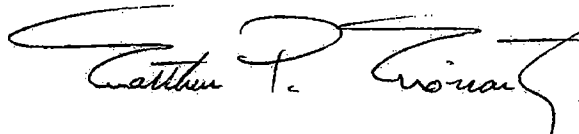
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We look forward to seeing you on June 17th, and addressing these and other matters raised by Plaintiffs.

Sincerely,

A handwritten signature in black ink, appearing to read "Matthew P. Moriarty". The signature is fluid and cursive, with a large initial "M" and a long, sweeping underline.

Matthew P. Moriarty

MPM:rcf

Cc (via e-mail):

Fred Thompson
Carl Frankovitch
Harry Bell
Meghan Johnson Carter
Harvey Kaplan
Madeleine McDonough
Ericka Downie
Rebecca Betts
David Thomas
Kristen Mayer
Dick Dean